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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/586,766

07/20/2006

Miroslav Simera

37351

8001

23589 7590 10/20/2009  
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EXAMINER

EASTMAN, AARON ROBERT

ART UNIT

PAPER NUMBER

3745

MAIL DATE

DELIVERY MODE

10/20/2009

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/586,766	<b>Applicant(s)</b> SIMERA, MIROSLAV	
	<b>Examiner</b> Aaron R. Eastman	<b>Art Unit</b> 3745	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 20 July 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-5 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4 and 7 is/are rejected.
- 7) ☒ Claim(s) 5 and 6 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☒ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |                                                                                        |                                                                   |
|----------------------------------------------------------------------------------------|-------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>07/20/2006</u> .                                              | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

### *Oath/Declaration*

1. The oath or declaration is defective. A new oath or declaration in compliance with 37 CFR 1.67(a) identifying this application by application number and filing date is required. See MPEP §§ 602.01 and 602.02.

The oath or declaration is defective because:

On page 1, under the heading **ACKNOWLEDGEMENT OF REVIEW OF PAPERS AND DUTY OF CANDOR** it reads: "I acknowledge the duty to disclose to the Office all information known to me to be material to patentability as defined in Title 37, Code of Federal Regulations, § 1.56(a)." (emphasis added) This should read: "I acknowledge the duty to disclose to the Office all information known to me to be material to patentability as defined in Title 37, Code of Federal Regulations, § 1.56."

Appropriate correction is required.

### *Specification*

2. The disclosure is objected to because of the following informalities: On page 1 in the 2nd paragraph under "**Background Art**" the phrase "...the second outlet opening to the area between the first friction surface and the second friction surface improving so their mutual movements." is unclear to the Examiner. In particular the portion reading "improving so their mutual movements".

On page 2, the last line of the page, it is unclear what is meant by the phrase "respectively torsional moment of the rotor".

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On page 4, the last two lines of the page, it is unclear what is meant by the phrase "This is also the way how to control the torsional moment on the shaft 9."

On page 2, lines 24 and 27, "bellow" should read --below-- and in line 27, "Using" should read --Use--.

On page 4, line 2, "narrowers" should read --narrows and in lines 17, 18 and 27 "bellow" should read --below--.

On page 5, line 27, "bellow" should read --below--.

On page 6, lines 2 and 32, "bellow" should read --below-- and in line 13 "in the Fig. 3" should read --in Fig. 3--.

On page 7, line 3, "trough" should read --through-- and in line 32 "sped" should read --speed--.

On page 9, line 5, "bellow" should read --below--.

Appropriate correction is required.

### ***Claim Objections***

3. Claims 2-7 are objected to because of the following informalities: In claim 2, line 1 of the claim, "Claim" should read --claim--. In claim 3, line 1 of the claim, "Claim" should read --claim--. In claim 4, line 2 of the claim, "Claim" should read --claim--. In claim 5, line 1 of the claim, "Claim" should read --claim--. In claim 6, line 1 of the claim, "Claim" should read --claim--. In claim 7, line 1 of the claim, "Claim" should read --claim--. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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4. Claims 1 and 2 are rejected under 35 U.S.C. 102(b) as being anticipated by USP 5,178,515 (Tsuchiya et al. hereinafter).

5.

6. In re claim 1 Tsuchiya et al. disclose a rolling fluid machine comprising:  
a chamber (2) having an inner surface, where at least a part of said inner surface has a rotary shape and the chamber (2) is provided with at least one fluid inlet (8) and at least one outlet (9) and;  
a rolling rotor (3) mounted in the chamber to provide a clearance between the rotor (3) and the inner surface in a manner enabling rolling and swinging, wherein, a first space is provided in the chamber below the rotor and a second space is provided in the chamber above the rotor, and wherein the first space below the rotor and the second space above the rotor are fluidically interconnected by at least one channel (62) in addition to the clearance (Fig. 12).

7. In re claim 2 Tsuchiya et al. disclose the rolling fluid machine as set forth in claim 1, wherein the rotor includes a wall and wherein the channel comprises an opening (62) through the wall.

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

8. Claims 1, 3, 4 and 7 are rejected under 35 U.S.C. 102(e) as being anticipated by CZ 13837 (Sterba hereinafter).

9. In re claim 1 Sterba discloses a rolling fluid machine comprising:

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a chamber (1) having an inner surface, where at least a part of said inner surface has a rotary shape and the chamber (1) is provided with at least one fluid inlet (3) and at least one outlet (6) and;

a rolling rotor (4) mounted in the chamber (1) to provide a clearance between the rotor (4) and the inner surface in a manner enabling rolling and swinging, wherein, a first space is provided in the chamber below the rotor (4) and a second space is provided in the chamber above the rotor (4), and wherein the first space below the rotor (4) and the second space above the rotor (4) are fluidically interconnected by at least one channel (7) in addition to the clearance (see Fig. 2 wherein the spaces above and below the rotor (4) are interconnected by a series of channels that include a pump (11), a fluid tank (12) and a throttle valve (14)).

10. In re claim 3 Sterba discloses the rolling fluid machine as set forth in claim 1, wherein the chamber includes an inner space and wherein the channel (7) is arranged outside the inner space of the chamber (1).

11. In re claim 4 Sterba discloses the rolling fluid machine as set forth in claim 1 wherein the channel (7) includes a control valve (14) incorporated therein.

12. In re claim 7 Sterba discloses the rolling fluid machine as set forth in claim 3, wherein the channel (7) includes a control valve (14) incorporated therein.

***Allowable Subject Matter***

13. Claims 5 and 6 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening.

***Conclusion***

14. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. USP's 6139267 and 6702038, USPAP's 2003/0138318, 2003/0147740 and 2005/0198751 as well as WO's 2001/044688, 2004/011743 and 2005/033504 all disclose a rolling rotor.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Aaron R. Eastman whose telephone number is (571)270-3132. The examiner can normally be reached on Mon-Thu 9:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward Look can be reached on (571) 272-4820. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Aaron R. Eastman/

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Examiner, Art Unit 3745

/Edward K. Look/

Supervisory Patent Examiner, Art Unit 3745